

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MARIA MASUCCI,

Plaintiff,

V.

MARY E. PETERS, Secretary,
U.S. Department of Transportation,

Defendant.

Civil Action No. 04-12537 RGS

**JOINT MOTION TO
CONTINUE TRIAL DATE TO COMPLETE SETTLEMENT DISCUSSIONS**

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, the parties jointly move to continue the trial in this matter, which is currently scheduled for July 16, 2007, for a period of three months, or such later date as is convenient for the Court. As set forth in greater detail below, the parties have initiated settlement discussions in this matter and need additional time to complete those discussions and obtain necessary approvals. In addition, counsel for the government, Assistant U.S. Attorney Mark T. Quinlivan, is currently scheduled to transfer to the Appeals Unit of the U.S. Attorney's Office on July 9, 2007, and has multiple upcoming appeals deadline in the next month, and also is scheduled to present oral argument in the United States District Court for the Northern District of California on July 13, 2007. In further support of the foregoing motion, the parties state as follows:

1. On December 5, 2004, plaintiff Maria Masucci filed this action, which alleges discrimination and retaliation on the basis of her sex and disability in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-16 and the Rehabilitation Act of 1973, 29 U.S.C.

§§791(b) and 794. On March 14, 2005, the defendant moved to dismiss those counts of Ms. Masucci's complaint arising under Massachusetts law on the ground that the United States has not waived its sovereign immunity for claims arising under state law, and because Title VII provides the exclusive remedy for claims of discrimination in federal employment, and further moved to strike Ms. Masucci's prayers for liquidated and punitive damages. On June 28, 2005, this Court granted that motion. Following a scheduling conference on February 22, 2006, discovery in this action commenced and was completed on November 3, 2006.

2. On March 29, 2007, this Court entered an Order Regulating Non-Jury Trial, scheduling a bench trial for July 16, 2007, and ordering that the parties file a pretrial statement on or before July 10, 2007.¹

3. The parties have recently initiated settlement discussions, and are currently awaiting final settlement authority from the Federal Aviation Administration ("FAA") before completing those discussions. The parties had anticipated obtaining that authority and resolving this matter prior to this date -- which would have obviated the need for filing the instant motion -- but government counsel has been informed that due to vacation schedules of FAA officials and the Fourth of July holiday, a meeting in which settlement authority will be decided upon cannot be scheduled until next week. The parties therefore jointly request that the trial in this matter be continued for three months, or until such later date that is convenient for the Court, so that the parties can complete settlement discussions.

¹ Inasmuch as plaintiff's causes of actions arise under Title VII and the Rehabilitation Act, plaintiff has requested and is entitled to a jury trial.

4. Undersigned counsel for parties hereby both represent that this motion is not being made for the purposes of delay, but in the good faith belief that this case can and will be resolved amicably without the need for further intervention by this Court.

5. In further support thereof, undersigned counsel for the defendant, Mark T. Quinlivan, notes that he is currently scheduled to transfer to the Appeals Unit of the U.S. Attorney's Office in the next two weeks, and has the following upcoming deadlines in appeals briefs in the United States Courts of Appeals for the First and Ninth Circuits in the next month:

- July 16, 2007: Brief due in United States v. LaFortune, No. 06-1699 (1st Cir.)
- July 19, 2007: Brief due in United States v. Page, No. 06-2006 and United States v. Green, No. 06-2007 (1st Cir.)
- July 21, 2007: Brief due in United States v. Oakland Cannabis Buyers' Cooperative, No. 05-15446; United States v. Marin Alliance for Medical Marijuana, No. 05-16547; and United States v. Ukiah Cannabis Buyer's Club, No. 05-16566 (9th Cir.)
- July 26, 2007: Reply brief due in Hanna v. Secretary of the Army, No. 07-1090 (1st Cir.)

In addition, on July 13, 2007, undersigned counsel for the defendant is scheduled to present oral argument before the Hon. Jeremy Fogel of the United States District Court for the Northern District of California in County of Santa Cruz v. Gonzales, No. 03-1802 JF, which will require that he be out of the office on travel on July 12 and 13, 2007.

6. Undersigned counsel for the defendant did not bring these matters to the attention of the Court earlier because, for the reasons set forth above, he was operating under the good faith belief that this case would be amicably resolved without the need for filing this motion. It was only upon being informed by agency counsel at the FAA that a settlement approval meeting could not be scheduled until next week that it was apparent that the filing of this motion would be necessary.

WHEREFORE, with good cause having been shown, the parties hereby respectfully request that this Court continue the trial in this matter for three months, or until such later date as is convenient for the Court, so that the parties can complete settlement discussions.

Respectfully submitted:

By the parties,

The Plaintiff,

The Defendant,

By Her Attorneys

By Her Attorney

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Dated: July 5, 2007